

REMARKS

A request for reconsideration is made herein pursuant to a Request for Continued Examination (RCE) and new claims 37-48 are added for examination.

In the Office Action, the Examiner noted that claims 1-10, 17-31, and 33-36 are pending in the application and that claims 1-10, 17-31, and 33-36 stand rejected. New claims 37-48 have been added. Thus, claims 1-10, 17-31 and 33-48 remain pending in the application. New claims 37-48 are directed to the present invention with differing scope over those previously presented in an effort to further prosecution.

Rejections Under 35 U.S.C., §102

Claims 21-25 are rejected under 35 U.S.C. §102(b) as being anticipated by *Corelli* (U.S. Patent 3,659,741). The Examiner asserts that *Corelli* discloses a container with an insulating liner with side walls with a lower section with an inclined inside surface and an upper section with at least one upper section having internal inclined corner surfaces extending upward and outward to the lip at the four corners, and with "each corner surface subtending an angle greater than an angle subtended by the respective corner...". The Examiner also asserts that *Corelli* has an upper wall section with an alignment corner surface on an inside surface of each perpendicular corner, with "each alignment corner surface in a horizontal plane comprising a curved arc having an inside corner entrance opening defining an angle or complementary opening angle that is less than 90 degrees,

the curved arc defining an angle (for example, a 90 degree angle) that is greater than a respective one of the inside corner angles (for example, an 80 degree angle) and specifically provided to create an increased corner alignment surface area, each alignment corner surface is formed in an indented rib section...”.

Applicant disagrees and does not believe that *Corelli* anticipates claims 21-25. More particularly, claim 21 includes “(an) upper wall section having a plurality of spaced-apart alignment corner surfaces inclined in a vertical plane and extending upward and outward to the periphery of the tray, each alignment corner surface in a horizontal plane comprising a curved arc defining an angle that is greater than a respective one of the inside corner angles and specifically provided to create an increased alignment surface area and to receive an internal complementary mating corner alignment fixture to maintain the tray accurately aligned at the corners as the tray is being trimmed from the thermal plastic expanded foam web...”.

With respect to independent claim 21, *Corelli* does not establish a *prima facie* case of anticipation because *Corelli* does not provide (1) a single reference (2) that teaches or enables (3) each of the claimed elements (arranged as in the claim) (4) expressly or inherently (5) as interpreted by one of ordinary skill in the art.

Corelli does not teach or enable a plurality of spaced-apart alignment corner surfaces inclined in a vertical plane, each in a horizontal plane comprising a curved arc defining an angle that is greater than a respective one of the inside corner angles as

recited in claim 21. *Corelli*, in contrast, teaches a corner surface in a horizontal plane that forms a 90-degree angle, as shown in Figures 5 and 6. Accordingly, *Corelli* does not establish a *prima facie* case of anticipation. Accordingly, claims 21-25 are believed to be allowable over *Corelli* and not anticipated thereby.

Withdrawal of these rejections is respectfully requested.

Rejections Under 35 U.S.C., §103

Claims 1-8, 10, 17-31, and 33 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Corelli*, in view of *Ramirez, et al.* (U.S. Patent 5,934,472), *Huang, et al.* (U.S. Patent 6,269,969 B1), *Balzar, et al.* (U.S. Patent D437,686 S), *Reskow* (U.S. Patent 5,503,858), and *Schubert, et al.* (U.S. Patent 3,935,962). Claims 1-8, 10, 17-31, and 33 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Corelli*, in view of *Ramirez, et al.* (U.S. Patent 5,934,472), *Huang, et al.* (U.S. Patent 6,269,969 B1), *Balzar, et al.* (U.S. Patent D437,686 S), *Reskow* (U.S. Patent 5,503,858), *Schubert, et al.* (U.S. Patent 3,935,962), and *Hundley* (U.S. Patent 5,381,901). Claims 21-25 are also rejected under 35 U.S.C. §103(a) pursuant to the previous combination due to a lack of showing of the dimensional limitations associated with the adjacent corner surface. Claims 2 and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over [*Corelli* in view of *Ramirez, Huang, et al., Balzar, Reskow* and *Schubert*] or [*Corelli* in view of *Ramirez, Huang, et al., Balzar, Reskow, Schubert* and *Hundley*] as applied to claim 1, and further in

view of *LaFleur* (U.S. Patent 5,224,623).

In order to teach a *prima facie* case of obviousness, the Examiner must provide (1) one or more references (2) that were available to the inventor and (3) that teach (4) a suggestion to combine or modify the references, (5) the combination or modification of which would appear to be sufficient to have made the claimed invention obvious to one of ordinary skill in the art. The Examiner has not provided a *prima facie* case of obviousness because there is no teaching or suggestion to combine or modify the cited references in a manner that would appear to be sufficient to have made the claimed invention obvious to one of ordinary skill in the art.

More particularly, *Corelli* does not teach the cited alignment corner surfaces, as shown in Figures 5 and 6 of *Corelli*. *Ramirez* teaches an inner surface that is greater than 90 degrees in Figure 6. However, as shown in Figure 7, *Ramirez* teaches a tray with an inclined corner surface that forms an obtuse angle with the bottom wall, but does not teach a lower wall section and an upper wall section wherein the upper wall section forms an obtuse angle that is less than the obtuse angle in the lower wall section (see claim 1). Independent claim 17 also requires an "inclined inside corner surface and a vertical plane forming an obtuse angle with the bottom wall that is less than a corresponding obtuse angle formed between the lower section and the bottom wall to provide a conical alignment surface at each corner...". Independent claim 21 also includes "each inclined corner surface and a vertical plane forming an obtuse angle with the bottom wall that is less than

the corresponding obtuse angle formed between the lower wall section and the bottom wall...". Independent claim 21 further includes the limitation "wherein each alignment corner surface is formed in an indented rib section that is formed in the upper wall section of each of the side walls". Independent claim 26 includes the limitation "wherein each alignment corner surface is formed in an indented rib section that is formed in the upper wall section of each of the side walls".

Independent claim 33 includes the limitation "wherein each alignment corner surface in a horizontal plane includes an arcuate surface formed as a recessed section into the plurality of ribs". Independent claim 34 includes the limitation of "the inside surface including a plurality of reinforcing ribs configured to provide extra stiffness to the upper wall section...wherein the upper wall section has an alignment corner surface on the inside surface...". Independent claim 35 includes the limitation of "an inclined lower section and an upper section...(wherein) each inclined corner surface and a vertical plane forming an obtuse angle with the bottom wall that is less than a corresponding obtuse angle formed between a corresponding lower wall section of the bottom wall...". Independent claim 36 includes the limitation of "(the) alignment corner surface formed in an indented section provided in the upper wall section of each of the side walls; a reinforcing member at each of the four corners is provided at least in part by a respective one of the indented sections; wherein each alignment corner surface and horizontal plane includes an arcuate surface formed as a recessed section into the reinforcing member; wherein the recessed section is limited to an arcuate surface area formed by the corners of the side walls, an angle defined

by the arcuate surface being greater than 90 degrees and less than 180 degrees to produce an increased alignment surface area when compared to a right-angled corner surface; wherein the alignment corner surface has a larger radius than is limited locally to the arcuate surface when compared to a radius of a corner accompanying the alignment corner surface...".

There is no teaching or suggestion to combine *Ramirez* with *Corelli* to achieve the above-recited limitations as presented in the claims. There is no teaching or suggestion to combine *Huang, et al.* with *Corelli* in order to teach or suggest the recited combinations above. Furthermore, there is no teaching or suggestion to combine *Balzar, et al.* with *Corelli* in order to realize the previously recited limitations. Likewise, there is no teaching or suggestion to combine *Reskow* with *Corelli* in order to achieve the previously recited claim limitations. Likewise, there is no teaching or suggestion to combine *Reskow* with *Corelli* in order to realize the recited combined claim limitations. Finally, there is no teaching or suggestion to combine *Schubert, et al.* with *Corelli* in order to realize the combined previously recited claim limitations.

Ramirez, et al. does not teach an indented rib section nor an upper and lower wall having different angles within the corner regions of the tray.

Huang does not teach or suggest alignment corner surfaces wherein the inclined corner surface and vertical plane forms an obtuse angle with the bottom wall that is less than a corresponding obtuse angle formed by a lower wall section with the bottom wall (see

Figures 2 and 5) wherein the angle of elements 52 (of Fig. 2) and 34 (of Fig. 5) appear to be identical. *Balzar, et al.* does not appear to teach or suggest alignment corner surfaces wherein the inclined corner surface and vertical plane forms an obtuse angle with the bottom wall that is less than a corresponding obtuse angle formed by a lower wall section with the bottom wall (see generally Figures 5 and 6) wherein the angle of elements appear to be identical.

Reskow, et al. does not appear to teach or suggest the previously recited claim limitations. More particularly, *Reskow* appears to teach away from the present invention as shown in Figures 8 and 11, wherein corner 128 has a greater obtuse angle with the base than the adjacent and lower side portions, such as portion 70. Such a structure differs from Applicant's structure wherein the upper structure is an obtuse angle that is less than the lower and surrounding side wall structure, relative to the base.

Schubert, et al. does not teach or suggest the previously recited claim limitations of an alignment corner surface wherein an upper section forms a smaller obtuse angle than a lower section. More particularly, Figure 6 of *Schubert, et al.* appears to show an upper surface that forms an identical obtuse angle with a bottom wall as does a lower surface on the respective container.

Hundley is further combined with *Corelli, Ramirez, et al.*; *Huang, et al.*; *Balzar, et al.*; *Reskow*; and *Schubert, et al.* to formulate a 35 U.S.C. §103 rejection with respect to claims 1-8, 10, 17-31, and 33-36.

With regard to the rejection of claims 1-8, 10, 17-31, and 33-36 pursuant to 35 U.S.C. §103(a) as being unpatentable over *Corelli* in view of *Ramirez, et al.*; *Huang, et al.*; *Balzar, et al.*; *Reskow*; *Schubert, et al.*; and *Hundley*, Applicant respectfully disagrees. The Examiner has attempted to reconstruct the claims in hindsight. There is no teaching or suggestion to string such a combination of references in order to reject claims 1-8, 10, 17-31, and 33-36. *Corelli* does not show the dimensional limitations associated with the alignment corner surface, as recited in the previously mentioned independent claims. The Examiner asserts that *Hundley* discloses a food tray with stepped ribs and indented rib sections in the upper wall section. The Examiner has indicated that it would be obvious to add the stepped rib configuration and the indented rib section to the combination of *Corelli*; *Ramirez, et al.*; *Huang, et al.*; *Balzar, et al.*; *Reskow* and *Schubert, et al.* as motivated by the need to simulate a stadium and to enhance the visual appeal of the container. Applicant is confused by the Examiner's assertion, and can hardly string together this combination of references in order to reach the recited combination in the independent. The Examiner asserted that official notice is taken of well-known stepped rib structures, and it would have been obvious to add stepped ribs as motivated by the increased strength and reinforcing characteristics associated with stepped ribs. However, the multitude of stepped ribs in *Hundley* all have an identical slope angle (or no angle whatsoever), as shown in Figures 3, 4, 8, and 9.

The sheer multitude of references being strung together in order to formulate an obviousness rejection is actually evidence of the non-obvious nature of the present invention. If the invention were so obvious, a simple combination of two references should suffice. Instead, the Examiner is asserting a string of seven references in order to formulate an obviousness rejection. Applicant asserts that such string of seven references is actually evidence of non-obviousness. Furthermore, claims 2 and 9 were rejected under 35 U.S.C. §103 over the combination of *Corelli, Ramirez, Huang, et al., Reskow and Schubert*, or *Corelli* in view of *Ramirez, Huang, et al., Balzar, Schubert, and Hundley*, as applied to claim 1 above, and further in view of *LaFleur*. Applicant can hardly keep track of all the references being strung together in order to formulate the present rejection. *LaFleur* merely teaches or suggests the provision of a generally rectangular meat tray having a side wall in which a helical reinforcing rib has been provided, the general angle of the side wall portions appear to be identical as shown in Figure 3. Nowhere does *LaFleur* teach or suggest the combination with one of the previously recited references to achieve a lower and upper wall section having different obtuse angles to provide the previously recited alignment features of the present invention in combination with alignment corner surfaces with reinforcing ribs formed therein in which inclined alignment corner surfaces are indented into the ribs at the corners of the side walls, and wherein the upper section of the side walls has an inside wall surface that is ribbed and extends upward and outward.

Application Serial No. 09/866,088
Amendment dated 1/18/05
Response to Office Action of 10/15/04

Applicant respectfully disagrees with the Examiner's assertion and the combination of the above-recited references.

Pending claims 1-10, 17-31, and 33-48 are considered to be allowable and non-obvious in light of the prior art of record as it is believed that a *prima facie* case of obviousness has not been established with respect to the recited references.


Withdrawal of these rejections is respectfully requested.

CONCLUSION

For all the reasons advanced above, Applicant respectfully submits that the application is in condition for allowance, and action to that end is respectfully requested. If the Examiner's next anticipated action is to be anything other than a Notice of Allowance, the undersigned respectfully requests a telephone interview before issuance of any such subsequent action.

Respectfully submitted,

Dated: 1/18/05

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